

provided to two individuals who allegedly hold a power of attorney for him. (*See* Docket No. 241).

Pursuant to 28 U.S.C. § 636(b)(1)(A), a United States magistrate judge may “hear and determine any [nondispositive] pretrial matter pending before the court,” and a district judge “may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law.” *See also Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1120 (3d Cir. 1986) (regarding nondispositive motions, “the district court may modify the magistrate’s order only if the district court finds that the magistrate’s ruling was clearly erroneous or contrary to law”). A ruling by a magistrate judge is considered to be “‘clearly erroneous’ when, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been committed.” *South Seas Catamaran, Inc. v. The Motor Vessel “Leeway,”* 120 F.R.D. 17, 21 (D.N.J. 1988) (quoting *United States v. Gypsum Co.*, 333 U.S. 364, 395 (1948)), *aff’d*, 993 F.2d 878 (3d Cir. 1993). Moreover, it is the party filing the notice of appeal who bears the burden of demonstrating that the magistrate judge’s decision was clearly erroneous or contrary to law. *See Alarmax Distributors, Inc. v. Honeywell Int’l Inc.*, No. 2:14cv1527, 2016 WL 6791240, at *1 (W.D. Pa. Apr. 20, 2016). In this case, as Plaintiff’s “Motion For the Sale of Discovery Evidence” is a nondispositive pretrial motion, the Court reviews Judge Lenihan’s July 27th Order denying the Motion under this “clearly erroneous” standard. *See* LCvR 72.C.2.

Having carefully reviewed Judge Lenihan’s July 27th Order, the Court concludes that that Order is thorough, well-reasoned, and supported by law. Therefore, upon consideration of Plaintiff’s Appeal of Judge Lenihan’s July 27th Order, and having reviewed that Order in accordance with 28 U.S.C. § 636(b)(1) and Rule 72.C.2 of the Local Rules of Court, the Court

finds that the July 27th Order is neither clearly erroneous nor contrary to law. Thus, the Court declines to reconsider Plaintiff's Motion and affirms Judge Lenihan's July 27th Order.

In view of the foregoing, the Court enters the following Order:

AND NOW, this 3rd day of October, 2023, IT IS HEREBY ORDERED that Plaintiff's "Motion For Objection to Order Denying ECF No. 228, Motion for the Sale of Discovery Evidence Thereof D.V.D.'s" (Docket No. 241), which the Court construes as an appeal of Judge Lenihan's July 27th Order denying Plaintiff's Motion filed at Docket No. 228, said Order (Docket No. 234) is AFFIRMED.

s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc/ecf: All counsel of record

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